

## CHAPTER 511 AIR POLLUTION ARTICLE VII. GENERAL PROHIBITIONS\*

\*Cross reference(s)--Fire prevention and protection, ch. 591.

### **Sec. 511-701. Air pollution.**

Any person who causes or creates air pollution, as defined in section 511-102 of this chapter, shall be in violation of this chapter and its regulations and is subject to the enforcement procedures in Article VI.  
(Code 1975, § 4-70)

### **Sec. 511-702. Open burning restricted; general prohibitions.**

It shall be unlawful at all times to cause, suffer or allow any open burning at any place within Marion County except as permitted by sections 511-703 through 511-706; provided, no person shall cause, suffer, allow or permit the emission into the atmosphere of any substance or combination of substances from the burning of wood products as allowed therein in such quantities as to cause annoyance or constitute a nuisance so as to interfere with the health or well-being of any individual in his/her home or place of employment or recreation or as to interfere with the normal use and enjoyment of any such place.  
(Code 1975, § 4-71)

### **Sec. 511-703. Limited burning for special purposes.**

The open burning of wood products which does not create a nuisance or a fire hazard and which is attended by a responsible person at all times until completely extinguished is allowed for the following purposes:

- (1) Ceremonial fires and bonfires. A bonfire in connection with a religious ceremony, school pep rallies, scouting activities and similar purposes.
- (2) Camp fires and fires for cookouts.
- (3) Fire for personal comfort:
  - a. Fires required for personal comfort;
  - b. A bonfire in connection with recreational activities including, but not limited to, sledding and ice skating.
- (4) Open burning of agricultural wastes:
  - a. Open burning of plant life grown on the premises in the course of agricultural operations, when it can be shown that such open burning is necessary and that no fire hazard will occur, provided the person intending to dispose of plant life by open burning shall obtain approval from the fire department which has jurisdiction and from the Indianapolis Air Pollution Control Division.
  - b. Any open burning permitted under the provision of this subsection shall be allowed only between the hours of 10:00 a.m. and 7:00 p.m., and only at times when the actual or forecast wind speed as given by the local National Weather Service is greater than five (5) miles per hour and less than twenty (20) miles per hour. Such fires shall consist of plant life only.
- (5) Stoves for heating and fireplaces. Fires shall be permitted in wood stoves for heating and fireplaces if such fire does not create an air pollution problem or a fire hazard.
- (6) Limbs, twigs, and branches. Residents of single- or double-family dwellings located on one (1) or more residential lots shall be allowed to burn only dried limbs, twigs and branches (but not leaves) originating on their or contiguous premises, but only between the hours of 10:00 a.m. and 3:00 p.m. Burning shall be more than fifteen (15) feet from any structure, in a noncombustible container, sufficiently vented to induce adequate primary combustion air, with enclosed sides, a bottom and a mesh covering with openings no greater than one-fourth (1/4) inch. If such fire creates a health hazard, it shall be extinguished.

(Code 1975, § 4-73)

### **Sec. 511-704. Fire training.**

(a) The administrator may authorize the intentional and controlled burning of actual or simulated structures in Marion County for the exclusive purpose of training fire department personnel concerning firefighting and fire prevention. Persons responsible for burning as authorized hereunder shall be consistent with the purpose and adequacy of the training involved and remove such contents or portions of any structure or structures which may cause excessive or hazardous emissions of air contaminants. Authorization by the administrator shall be given only upon the basis of certification to the administrator of the necessity of such training as would be permitted hereunder.

(b) The administrator may authorize intentional and controlled burning at facilities which are designed for the training of firefighting or fire prevention personnel for the exclusive purpose of training fire department personnel concerning firefighting, fire rescue and survival, and fire prevention.

(c) The administrator may authorize industrial fire training where such fires are properly supervised by a responsible person; provided, however, that the administrator may require compliance with such general or special restrictions, standards and qualifications as in the discretion of the administrator are deemed advisable.

(Code 1975, § 4-74; G.O. 150, 1999, § 7)

#### **Sec. 511-705. Emergency burning.**

(a) The administrator may allow emergency burning of petroleum products, high explosives or other dangerous materials where such fires are properly controlled by a responsible person and are deemed necessary in the public interest.

(b) The administrator may allow open burning of refuse consisting of material resulting from a disaster if the mayor has declared such a disaster in the area.

(Code 1975, § 4-75)

#### **Sec. 511-706. Variances for open burning.**

Open burning not otherwise allowed by this regulation may be allowed for air curtain incinerators with prior receipt of a variance application and approval by the administrator. A person or persons may request permission from the administrator to burn wood or wood products on any property using an air curtain incinerator. The board shall, by regulation, establish guidelines for approval or denial of such requests. The petitioner may appeal a denial of a variance request to the board, pursuant to section 511-801 of this chapter.

(Code 1975, § 4-76)

#### **Sec. 511-707. Liability.**

(a) Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire causing air pollution shall not be excused from responsibility therefor on the basis that such fire was accidental or an act of God.

(b) The owner of property, as appearing in the latest records of the appropriate township assessor, where open burning in violation of this article and its regulations occurs, shall be prima facie liable for the violation.

(Code 1975, § 4-77)

#### **Sec. 511-708. Enforcement of open burning.**

The open burning provisions of this article are enforceable by the department of public works of the consolidated City of Indianapolis and Marion County, the authorized designee of the director of the department of public works, and any duly appointed fire prevention or law enforcement officer within Marion County (including the excluded cities of Beech Grove, Lawrence, Southport and Speedway), acting on his/her own initiative or at the request of the department of public works.

(Code 1975, § 4-78)

#### **Sec. 511-709. Penalties for open burning.**

(a) A person violating open burning provisions of this article may be served by an authorized enforcement person with a notice of violation as provided in Article III, Chapter 103 of this Code, Enforcement Procedures-Ordinance Violations Bureau. The person upon whom a notice of violation is served may admit liability to the violation as provided in the above sections and pay a civil penalty of fifty dollars (\$50.00).

(b) If, in the opinion of the authorized enforcement person, the violation is so substantial as to warrant a more severe penalty, the authorized enforcement person may issue a notice of violation and notify the administrator, who may initiate administrative adjudication by following the procedures set forth in Article V, Chapter 103 of this Code, or who may initiate civil enforcement by submitting a written request to the corporation counsel to file a complaint of ordinance violation and/or to seek an injunction. The administrator shall send notice of the written request to the person subject to the action.

(c) Except as otherwise provided herein, any person found in violation of the open burning provisions of this article shall be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day in violation shall be considered a separate violation.

(Code 1975, § 4-79; G.O. 181, 1997, § 2)